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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/556,289	04/24/2000	Martin D. Nathanson	1211.136-CIP	7243
5514	7590	03/08/2006	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO			NGUYEN, STEVEN H D	
30 ROCKEFELLER PLAZA			ART UNIT	
NEW YORK, NY 10112			PAPER NUMBER	
			2665	

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/556,289

Applicant(s)

NATHANSON ET AL.

Examiner

Steven HD Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/5/05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 32-34.37-39 and 47-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 32-34.37-39 and 47-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The declaration filed on 12/25/05 under 37 CFR 1.131 has been considered but is ineffective to overcome the USP 6,360,257 and USP 6,535,493 references because the evidence submitted is insufficient to establish conception and diligence before the filing date of the references.
2. The evidence submitted is insufficient to establish a conception of the invention prior to the effective date of the USP 6,360,257 and USP 6,535,493 references. While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897). The applicant is required to give a clear explanation of the exhibits pointing out exactly what facts are established and relied on. See MPEP 715.07. In the present declaration, the applicant refers to Exhibit A but it is unclear what portions of the Exhibit A is related to the claims 32 and 37. Each document submitted as evidence should be discussed so that each document's relation to a conception of the invention is clearly set forth as the limitations of claims 32 and 37. The present declaration states that Exhibit A describes the invention as claims 32 and 37, but the present declaration does not point out where the limitations of claims 32 and 37 are recited in the Exhibit A. Therefore, the conception cannot be established.
3. The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the USP 6,360,257 and USP 6,535,493 references to either a

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constructive reduction to practice or an actual reduction to practice. Where conception occurs prior to the date of the references, but reduction to practice is afterward, it is not enough merely to allege that the applicant or patent owner had been diligent. Rather, the applicant must show evidence of facts establishing diligence. See MPEP 715.07(a). Furthermore, it is noted that neither the present declaration nor the supporting documents contain any dates that would allow for the establishment of diligence. It is impossible to establish a diligence since the exhibit A does not set forth what pieces of the evidence the applicant was developing at what times. Therefore, it is impossible to construct a time line from the conception to constructive reduction to practice that shows whether or not the applicant was diligent at a given time or times on the timeline based on the Exhibit A.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spaur (USP 5732074) in view of Rydberg (USP 6360257).

Regarding claims 32, Spaur '074 discloses a system for transferring data between a vehicle and a data exchange site comprising a communication unit located onboard the vehicle to collect operation data from the selected components of the vehicle and to exchanging the data with the data site (Fig 1, Ref 10, col. 8, line 10 to col. 11, lines 30). However, Spaur '074 fails to

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disclose the mobile transmits the collected data to the data site by SNMP. However, in the same field of endeavor, Rydberg discloses disclose the mobile transmits the collected data to the data site by SNMP (See Fig 3-6 discloses the host and mobile for exchanging data by SNMP, Col. 3, line 2-15, 50-58).

Since, Spaur suggests that a central site manages a vehicle by using Internet protocol for conveying the data between them. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply SNMP for using to conveying data between the mobile and host as disclosed by Rydberg's method and system. The motivation would have been to reduce the cost of the system.

Regarding claims 33-34, Spaur' 074 and Rydberg fail to disclose the claimed invention such as a data site is a neighboring vehicle; exchanging discovery signals with the neighboring and status data with selected ones of the neighboring vehicles. However, the examiner takes an official notice that the advantage of using a data site is a neighboring vehicle; exchanging discovery signals with the neighboring and status data with selected ones of the neighboring vehicles are well known and expected in the art. Therefore, It would have been obvious to one of ordinary skill in the art to implement a data site is another vehicle; exchanging discovery and status with another vehicle because it's well known and expected in the art at the time of invention was made in order to exchange data with another node for detecting a neighbor station for establishing a routing table.

6. Claims 51-54 rejected under 35 U.S.C. 103(a) as being unpatentable over Spaur' 074 and Rydberg as applied to claim 32 above, and further in view of Lee (USP 6535493).

Regarding claims 51-54, Spaur' 074 and Rydberg fail to disclose the mobile and data site are coupled to a 802.11 interfaces in order to form a data link between them by using 802.11 protocol wherein the mobile has IPv6 address. In the same field of endeavor, Lee discloses a mobile unit (Fig 1, Ref 100) and data site (Fig 1, Ref 104, access point coupled to host 112) coupled to the 802.11 interfaces to form a data link using 802.11 protocol wherein the mobile has IPv6 address (Col. 5, lines 1-26 and col. 10, lines 43-46).

Since, Spaur suggests an Ethernet and mobile IP. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply a mobile and access point 802.11 as disclosed by Lee's method and system into the method and system of Spaur' 074 and Rydberg. The motivation would have been to reduce the cost of the system.

7. Claim 37-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spaur (USP 5732074) in view of Rydberg (USP 6360257) and Lee (USP 6535493).

Regarding claims 37, Spaur '074 discloses (Figs 1-4 and col. 1, line 10 to col. 14, line 38) a system for transferring data between a vehicle and a data exchange site comprising a communication unit located onboard the vehicle to collect operation data from the selected components of the vehicle and to exchanging the data with the data site (Fig 1, Ref 10, col. 8, line 10 to col. 11, lines 30). However, Spaur '074 fails to disclose a communication unit is 802.11 and an 802.11 access point acts as a router and foreign agent for communication unit and interface to a wireline network in order to route the data between the mobile and data site by SNMP. However, in the same field of endeavor, Lee discloses a communication unit is 802.11 (Fig 1, Ref 100) and an 802.11 access point acts as a router and foreign agent (Fig 1, Ref 104) for communication unit and interface to a wire line network (Fig 1, Ref 110) in order to route the

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data between the mobile and data site (Fig 1, Ref 112; Col. 5, lines 1-26 and col. 10, lines 43-46). However, Spaur and Lee do not disclose the mobile transmits the collected data to the data site by SNMP. However, in the same field of endeavor, Rydberg discloses the mobile transmits the collected data to the data site by SNMP (See Fig 3-6 discloses the host and mobile for exchanging data by SNMP, Col. 3, line 2-15, 50-58).

Since, Spaur suggests an Ethernet and mobile IP. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply a method for exchanging the data between the mobile and data site by using SNMP as disclosed Rydberg into Lee's method and system which discloses a mobile and access point comprising 802.11 interface into Spaur's '074 system. The motivation would have been to reduce the cost of the system.

Regarding claims 38-39, Spaur' 074, Lee and Rydberg fail to disclose the claimed invention such as a data site is a regulatory agency or another vehicle. However, the examiner takes an official notice that the advantage of using a data site is a neighboring vehicle and regulatory agency are well known and expected in the art. Therefore, It would have been obvious to one of ordinary skill in the art to implement a data site as a regulatory agency or another vehicle because it's well known and expected in the art at the time of invention was made in order to exchange data with another node.

8. Claims 47-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spaur' 074, Lee and Rydberg as applied to claim 37 above, and further in view of Spaur (USP 6122514).

Spaur' 074, Lee and Rydberg fail to disclose the claimed invention. However, Spaur '514 discloses a system for transferring data between the vehicle and another exchange data site comprising a pair of data links (Fig 1, the device has links for transferring data, Ref 34) and

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transferring on the data link having a least impedance (Fig 1, Ref 64) by a measuring the impedance of the links (Fig 1, Ref 50 for monitoring the links to the least cost channel; See Fig 3 and 4) and fixed network comprises the access points and data link joins mobile node with an access point (Fig 1); links including a wireless, satellite such as spread spectrum band (Col. 6, lines 30-48).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply a method and system for measuring the link in order to determine the least cost routing between the links as disclosed by Spaur '514 into the system of Spaur' 074, Lee and Rydberg. The motivation would have been to reduce the cost of transferring data.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

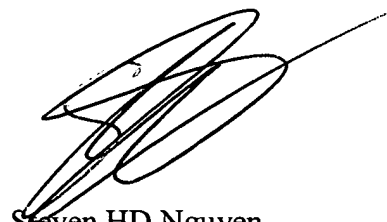
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven HD Nguyen whose telephone number is (571) 272-3159. The examiner can normally be reached on 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on (571) 272-3134. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to be 'Steven HD Nguyen', with a long horizontal line extending to the right.

Steven HD Nguyen
Primary Examiner
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March 1, 2006